

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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FRESENIUS KABI USA, LLC  
and FRESENIUS KABI DEUTSCHLAND  
GMBH

*Plaintiffs,*

v.

GLAND PHARMA LIMITED

*Defendant.*

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Civil Action No. 20-cv-12347 (FLW) (TJB)

Hon. Freda L. Wolfson, U.S.D.J.  
Hon. Tonianne J. Bongiovanni, U.S.M.J.

**CONSENT JUDGMENT BY AND AMONG  
FRESENIUS KABI USA, LLC; FRESENIUS KABI DEUTSCHLAND, GMBH  
AND GLAND PHARMA LIMITED**

Fresenius Kabi USA, LLC and Fresenius Kabi Deutschland GmbH (“Plaintiffs”) and Gland Pharma Limited (“Defendant” or “Gland”) have agreed to terms and conditions representing a negotiated settlement of this action and have set forth those terms and conditions in a Settlement and License Agreement, dated October 20, 2021 (the “Settlement and License Agreement”). Now the parties, having consented and stipulated to the entry of this Consent Judgment, as follows:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. This Court has jurisdiction over the parties and the subject matter of this action;
2. Plaintiffs have asserted that its United States Patent No. 8,118,802 (“the Patent-in-Suit”) is enforceable and valid and that the Patent-in-Suit would be infringed by the commercial manufacture, use, sale, offer for sale, or importation of Gland Product, as defined in the Settlement and License Agreement and described in Defendant’s Abbreviated New Drug Application No. 210102 (“Defendant’s ANDA”);

3. Defendant contends that the Patent-in-Suit is invalid and otherwise not infringed by the products described in Defendant's ANDA;

4. The filing of Defendant's ANDA was a technical act of infringement of the Patent-in-Suit under 35 U.S.C. § 271(e)(2)(A). No final judgment has been obtained by either Party regarding the presumptive validity of the Patent-in-Suit, and/or whether any commercial making, using, selling, or offering to sell within the United States, or importing into the United States, of the generic drug product described by Defendant's ANDA would infringe those patents;

5. In view of the Settlement and License Agreement, the parties have agreed to forego any further litigation involving their respective assertions of infringement and/or invalidity; unless otherwise specifically authorized pursuant to the Settlement and License Agreement, Gland, including any of its Affiliates, successors and assigns, is enjoined from infringing the Patent-in-Suit, on its own part or through any Affiliate, by commercially making, having made, using, selling, offering to sell, importing or distributing of the drug product described in Defendant's ANDA;

6. Each Party shall bear its own costs, attorneys' fees, and expenses incurred in connection with this action;

7. This Consent Judgment and Order is without prejudice to any claim, defense, or counterclaim in any possible future action between Defendant and Plaintiff regarding the Patent-in-Suit concerning any drug product other than those licensed in the Settlement and License Agreement; and

8. This Court retains jurisdiction to enforce or supervise performance under this Consent Judgment and the Settlement and License Agreement.

Dated: October 21, 2021

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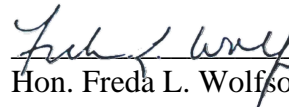
*Fresenius Kabi USA, LLC and  
Fresenius Kabi Deutschland GmbH*

/s/ Eric Faragi

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IT IS SO ORDERED THIS 3rd day of November, 2021

  
Hon. Freda L. Wolfson, Chief U.S.D.J.